

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing requested amendments and in view of the reasons that follow. Applicant respectfully asserts that entry of the requested amendments do not raise new issues that would require further search or consideration and would place the application in condition for allowance. Alternatively, entry of the requested amendments would place the application in better form for consideration on appeal.

Claims 1, 3, 7 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,483,850 to Yamauchi. Claims 1, 7-9 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,480,014 to Barton et al. (hereinafter "Barton"). Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Barton in view of Yamaguchi. Claims 4-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamauchi. Applicant gratefully acknowledges the Office Action's indication that claims 10, 11, 13 and 14 are allowed.

By this amendment, claim 1 has been amended to further define the subject matter Applicant regards as the invention as discussed in greater detail below. Claims 3-14 remain unchanged in the application.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. After amending the claims as set forth above, claims 1 and 3-14 remain pending in this application for consideration.

Applicant respectfully submits that independent claim 1 is patentably distinguishable over each of the cited references as required by § 102. Applicant further submits that each of the cited references fails to disclose Applicant's claimed hydraulic passage structure of an automatic transmission including ***a midway wall jointlessly integrally with and protruding inwardly from the housing*** as now required by amended independent claim 1. With this arrangement, it is only necessary to provide radial fluid passages in the midway wall, thus

eliminating the need for a connecting process of the midway wall to the transmission case and for machining to form other fluid passages. By contrast, each of the cited references fails to disclose this claimed feature. Accordingly, independent claim 1 and claims dependent therefrom are patentably distinguishable over each of the cited references. This distinction will be further described below.

THE CLAIMS DISTINGUISH OVER THE CITED REFERENCES

Claims 1, 3, 7 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yamauchi. Additionally, claims 1, 7-9 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Barton. In response, Applicant traverses these rejections, and respectfully submits that the claims are allowable for at least the reasons that follow.

Applicant relies on MPEP § 2131, entitled “Anticipation – Application of 35 U.S.C. 102(a), (b), and (e),” which states that a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Section 103 amplifies the meaning of this anticipation standard by pointing out that anticipation requires that the claimed subject matter must be “*identically* disclosed or described” by the prior art reference. (Emphasis added.) It is respectfully submitted that independent claim 1, from which the remaining rejected claims depend, has been amended to clearly define a relationship between the midway wall and the housing that is neither disclosed in nor suggested by either the Yamauchi or Barton reference. Thus, the cited references do not describe each and every element of any pending claim.

Embodiments of the present invention are directed to a hydraulic passage structure of an automatic transmission. According to one embodiment of the hydraulic passage structure of an automatic transmission as described in [0040] of the present application, “[a] midway wall 8 is disposed approximately halfway axially within transmission case 3. . . .” Figures 4-6 of the present application pictorially show this aspect of the present invention. Specifically, as shown in Figures 4-6, the midway wall 8 is jointlessly integral with the transmission case 3 (housing) and extends inwardly from the housing. The figures clearly illustrate that the midway wall 8, which is depicted as a hatched portion like the transmission case 3, is formed

with transmission case 3 without a joint therebetween. With this arrangement, it is only necessary to provide radial fluid passages 8a-8c in the midway wall 8, thus eliminating the need for a connecting process of the midway wall 8 to the transmission case 3 and the need for machining to form other fluid passages. As a consequence of this arrangement, an extended number of man-hours required for additional processing can be avoided, which leads to an improvement in cost-effectiveness. This claimed arrangement of ***a midway wall jointlessly integrally with and protruding inwardly from the housing*** is not suggested by either the Yamauchi or the Barton reference.

The Examiner asserts that Yamauchi teaches: “a housing 24” (*see* Office Action at page 2); and “a midway wall 24 (or 30) formed integrally therewith, the radial passage of the housing being formed in the midway wall” (*see* Office Action at page 3). Applicant respectfully disagrees. As amended, claim 1 specifically requires the midway wall to be formed jointlessly integrally with the housing. This is simply not shown in Yamauchi. As pointed out in the previous response, the housing and the midway wall are two distinct parts of the hydraulic passage structure. Thus, the Examiner’s assertion that Yamauchi’s pump cover 24, equates to both the claimed housing and the midway wall is incorrect. In addition, Yamauchi’s wall member 30 which is part of the pump cover 24 fails to qualify as the claimed midway wall because it does not protrude inwardly from the pump cover 24. Claim 1 requires the midway wall to protrude inwardly from the housing.

At best, even if the Examiner were to analogize Yamauchi’s transmission case 10 to the housing recited in claim 1, such an analogy would also be improper because Yamauchi teaches that the transmission case 10 (housing) is connected to the oil pump cover 24 (midway wall) by way of a bolt 26. In other words, as Yamauchi’s transmission case 10 (housing) and oil pump cover 24 (midway wall) are bolted together, and the midway wall is not jointlessly integral with the housing, as required by claim 1. Accordingly, contrary to the Examiner’s assertion, Yamauchi fails to teach or suggest this claimed arrangement recited in independent claim 1.

Similarly, the Examiner asserts that Barton teaches a hydraulic passage structure “wherein the housing comprises a midway wall (MW) which is formed integrally therewith,

the radial passage of the housing being formed in the midway wall.” *See* Office Action at page 4. Applicant respectfully disagrees. As amended, claim 1 requires ***a midway wall jointly integrally with and protruding inwardly from the housing***. This is simply not shown in Barton. In addition, Barton also fails to disclose that the claimed radial passage is formed in the midway wall. Barton discloses a double clutch structure in which a single passage (RP) is formed in the upper portion of the housing (H, MW). *See* Barton Figures. 1-2 and Office Action Exhibit A. The single passage (RP), however, is not formed in the midway wall (MW). Accordingly, contrary to the Examiner’s assertion, Barton fails to teach or suggest each of the features recited in amended independent claim 1.

In view of the fact that the Yamauchi and Barton references do not disclose the claimed arrangement of ***a midway wall jointly integrally with and protruding inwardly from the housing***, these two references cannot be said to anticipate nor can they be said to render obvious the invention which is the subject matter of independent claim 1. Thus, independent claim 1 is allowable. Since independent claim 1 is allowable, claims dependent therefrom, namely claims 3-9 and 12 are allowable by virtue of their direct or indirect dependence from allowable independent claim 1 and for containing other patentable features. Further remarks regarding the asserted relationship between any of the claims and the cited references are not necessary in view of their allowability. Applicant’s silence as to the Office Action’s comments is not indicative of being in acquiescence to the stated grounds of rejection.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated,

otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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